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OA 452/2022 Capt Brajesh Bharadwaj vs State of of Madhya Pradesh.
Annexures and Documents NGT E-filing No. 0701102009632022.

Note: - The mentioned Annexures in this filing of “Objections to the Joint Committee Report” contain references to the same Annexure Nos and their Page Nos that were previously E-filed with NGT and sent via email following the submission of the "FACTS" of the Original Application.

Due to the fact that the same INDEX and ANNEXURE Nos are mentioned for this “Objections filing” same INDEX be referred to avoid refiling the same ANNEXURES again.

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

ORIGINAL APPLICATION NO. 452 OF 2022

CAPT. BRAJESH BHARADWAJ

...APPLICANT

VERSUS

STATE OF MADHYA PRADESH

...RESPONDENT

**OJECTIONS TO JOINT COMMITTEE REPORT SUBMITTED AS PER HON'BLE
TRIBUNAL'S ORDER DATED 26.07.2022:**

A. The Joint Committee Report had erred in the following observations:

I. Deepening and stone-pitching of pond is an agricultural activity for self-use of the land holder:

Violation of ESZ Notification (came into force on 06.11.2019) provisions:

ANNEXURE 7.

1. The Project Proponent claims that the construction done in the pond was part of agricultural use in his private land. **Because the site was designed for recreation, there were no agricultural activities taking place around the pond and landscaped mounds (site photographs be please referred to-ANNEXURE 29, Page-374-381) Agricultural activities were being carried out on adjacent land, which was incorrectly identified as**

agriculture activities for the objectionable site. However, the beautification of the pond cannot be termed as a residential activity nor can it be termed as an agricultural activity as per ESZ Notification of Pench Tiger Reserve Seoni M.P provisions, due to the nature of the construction done on the natural pond such as deepening it and pitching stone around the edges of the pond. Further, as per regulated activities, pt 11 of the table mentions proviso that *“Provided that, local people shall be permitted to undertake construction in their land for their use including the activities listed in sub-paragraph (1) of paragraph 3 as per building bye-laws to meet the residential needs of the local residents.”*

2. Further, the Project Proponent claims that the Gram Panchayat had granted permission for the construction subject to further permission to be taken from the Forest Department. No such permission from the Forest Department **(Prescribed form for construction permission was not submitted-to LAC Committee of Pench Tiger Reserve Seoni)** taken by the Project Proponent. ANNEXURE-12 Page100.
3. In no way, deepening of pond shall be considered an agricultural activity or residential activity with stone pitching around the water body. Further, there arose no need for the deepening of the pond because it was large enough (1.5 ha) and held sufficient water. The talab was mainly used by wild animals for drinking purposes. With the stone pitching done, the depth of surface water has monumentally increased and hence, the animals would no longer be able to drink water and risk falling into it.

Also, the below mentioned provision in the ESZ Notification shows the intent that the development activities must be **prohibited** near natural water bodies: ANNEXURE-7, Page 52.

*(2) **Natural water bodies-** The catchment areas of all natural springs shall be identified and plans for their conservation and rejuvenation shall be incorporated in the Zonal Master Plan and the guidelines shall be drawn up by the State Government in such a manner as to prohibit development activities at or near these areas which are detrimental to such areas.*

II. LAC decision shows fencing is an issue as the height is 6-8ft and material used is chain link fencing. Only earthen material to be used for fencing at a height of 4 ft. maximum.

4. This is the only violation found by the joint committee report. Around the pond, high chain link fencing had been done. The height approved by the LAC in its meeting dated 28.10.2021 had prohibited height of the boundary of any construction to be 4 ft and made of stone, mud or shrubs. It stated that “Any kind of barbed wire, chain-link or other wire fencing which may harm the wildlife shall not be permitted, the fencings that have already installed, shall have to be removed. **Only 4 feet high fencing of stone, mud or shrubs will be permitted;**”. The said high chain link fencing whose height is 6-8ft along the forest and natural nallah would impede tiger and wild animal dispersal. ANNEXURE-12 Page 94 point 7.

LAC was formed according to National Tiger Conservation Authority NTCA Guidelines dated 15.10.2012 under Section 2.1.8 of Part B **as: ANNEXURE-14 Part B, Page-162.**

2.1.8 A **Local Advisory Committee** (hereinafter referred to as **LAC**) shall be constituted for each tiger reserve by the State Government.

The LAC shall have the following functions, namely: -

...

(c) to ensure site specific norms on buildings and infrastructures in areas inside and close to tiger reserves, keeping in view the corridor value and **ecological aesthetics**.

...

(e) monitor regularly (at least half yearly) all tourist facilities in and around tiger reserves vis-a-vis environmental clearance, area of coverage, ownership, type of construction, number of employees, etc., for suggesting mitigation and retrofitting measures if needed.

III. Sheds made by the Project Proponent are on private land only. Hence, LAC decision is not applicable that minimum 100m distance from the talab must be maintained for construction.

5. The LAC in its meeting dated 28.10.2021 as stated above also stated that no construction to be done within 100 m of the Talabs and water bodies and catchment areas. It stated that “No construction to be done within 100 meters of the Talabs and other water bodies and catchment areas;”. The

Joint Committee reported that that the inspection team observed that proper rooms were built including tin roofs, false ceilings and a garden in the front. Hence, the presence of rooms with amenities within 100 meters of pond cannot be justified as a storage house for agricultural need of Project Proponent. Also, the Committee reported that in the meeting of LAC dated 22.07.2021, the construction for the Talab appeared as **business purpose and no permission was taken** from the LAC.

ANNEXURE-12 Page 93 Point 3.

6. Further it cannot be justified that stating that the LAC committee decision of “no construction zone” for the shed constructed by the Project Proponent might not apply for locals (as per ESZ Notification). The LAC committee’s decision for imposing the “no construction zone” within 100m of water bodies was taken to preserve water bodies, which doesn’t segregate the local needs. In fact, any construction within 100 meters on the pond will eventually pollute it due seepage of underground effluents from soak pits etc. Allowing such new constructions are in violation of the LAC committee’s decision of Pench Tiger Reserve Seoni, NTCA guidelines and ESZ notification of Pench Tiger Reserve Seoni.
7. Further, non-agricultural activities (constructing rooms and cottages within 100 meters of pond, pitching of pond, digging trench, landscaping of high mud slopes, mounds, and pond excavation and installing high fencing) continued near pond under the “guise of agriculture” in order to

circumvent the regulated activity of construction for local residents as per the ESZ Notification (pt 11). The construction continued and no action taken by the authorities despite site being visible from the main road and very close to the Turiya gate of Pench Tiger Reserve Seoni.

IV. Earthen mounds created from the soil dug is now covered with grass and present shape of the slopes do not seem to be steep enough to create restriction on the dispersal and movement of wild animals.

8. The earthen mounds created due to the dugout soil has settled only from the top layer due the rain. It is very unstable and can possibly cause mishaps for wild animals climbing over it during dispersal and to drink water. The loose mounds will eventually erode over time due to rains, clogging the nearby natural nallah.

V. Garland drain constructed by the Project Proponent is an enabling structure to let the overflow of the Talab into the natural Nallah outside. No effluent or sewage was found to be flowing in it. Therefore, digging of such garland drain does not seem to be an activity attracting violation of pollution laws.

9. That the construction of garland drain/trench overflow discharge in the adjacent natural stream (114 meters) and deep trench dug along the stream and jungle side, endangering wild animals' movements and obstructing their path towards the pond will eventually clog the natural nallah. This is **against the ESZ notification** (point 2) which promotes for

the preservation of the natural water resources. **ANNEXURE-7 Page 52**

Point 2.

VI. Violation of Pollution Laws as per requirement of ESZ Notification overlooked.

10. Violations of air, noise and vehicular pollution ESZ notification rules were justified by stating that the violations of pollution laws not applicable as activities involving man and machinery are common whenever construction of any sort is done. These activities are regulated activities at Point No. 11 under regulated activities in the ESZ Notification. No major environmental impact of permanent nature is envisaged due to the said construction. **Temporary violations are not permitted under the ESZ notification.** Those violations at site by heavy earth moving machinery continued for months and disturbed the wildlife (**prohibited**) which is roughly 200 meters from the core area of the tiger reserve. These provisions as mentioned in the ESZ Notification are: **ANNEXURE-7, Page 52.**

***“Noise pollution.** -Prevention and control of noise pollution in the Eco-sensitive Zone shall be carried out in accordance with the provisions of the Noise Pollution (Regulation and Control) Rules, 2000 under the Environment Act. (**The noise made from the heavy machinery exceeds the permitted ambient decibel level**).*

***(7) Air pollution.-** Prevention and control of air pollution in the Eco-sensitive Zone shall be carried out in accordance with the provisions*

of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) and the rules made thereunder.

12) Construction and Demolition Waste Management. - *The Construction and Demolition Waste Management in the Eco-sensitive Zone shall be carried out as per the provisions of the Construction and Demolition Waste Management Rules, 2016 published by the Government of India in the Ministry of Environment, Forest and Climate Change vide notification number G.S.R. 317(E), dated the 29th March, 2016, as amended from time to time.”*

VII. Rain water harvesting is a promoted activity in the ESZ Notification which may include the deepening of Talab. The issue of stone pitching of the Talab seems to be a debatable issues, expert views required.

11. No explanation provided as to how rain water harvesting and deepening of pond is interlinked. Moreover, expert view required for stone pitching issue of the Talab, as mentioned by the Joint Committee Report must be emphasized. **Wild animals with hoofs are unable to drink the water and risk falling into the pond as a result of stone pitching. This is the village's only pond, located near the core area.**

B. The Joint Committee Report had not taken into consideration the following observations as mentioned by the Applicant in the Original Application:

VIII. Construction continued even after stay put by the Collector Seoni

M.P:

12. **ANNEXURE-1 Page 5, Para 2**-Despite the stay granted on 15.06.2021 by the Collector court Seoni, the work continued. **There was no record submitted by the Joint committee, as how the Collector Seoni had vacated the stay order.** SDM Kurai letter dated 25.04.2022 mentions of no copy of Gram panchayat approval for pond deepening being provided to SDM Kurai-ANNEXURE-1 Page 4.

13. Despite **Collector Seoni** receiving two letters (dated 10.06.2021 and 16.08.2021) from **Field Director office, Pench Tiger Reserve Seoni** requesting a halt to construction at Nandu Talab, several violations persisted-ANNEXURE-23 Page 296, 297.

IX. Violation of Construction and Demolition Waste Management Rules, 2016 overlooked as required to be followed as per the ESZ Notification: ANNEXURE-7, Page 53, Point 12.

14. The following provision is in violation with respect to the debris of stones and mud forming earthen mound outside the pond.

(4) Duties of the waste generator –

(1) Every waste generator shall prima-facie be responsible for collection, segregation of concrete, soil and others and storage of construction and demolition waste generated, as directed or notified by the concerned local authority in consonance with these rules.

...

(4) Every waste generator shall keep the construction and demolition waste within the premise or get the waste deposited at collection

*centre so made by the local body or handover it to the authorised processing facilities of construction and demolition waste; and ensure that there is no littering or deposition of construction and demolition waste so as to prevent obstruction to the traffic or the public or **drains.***

(5) Every waste generator shall pay relevant charges for collection, transportation, processing and disposal as notified by the concerned authorities; Waste generators who generate more than 20 tons or more in one day or 300 tons per project in a month shall have to pay for the processing and disposal of construction and demolition waste generated by them, apart from the payment for storage, collection and transportation. The rate shall be fixed by the concerned local authority or any other authority designated by the State Government.

15. Waste Generator has been defined under the Rule 3(j) as “*waste generator” means any **person** or association of persons or institution, residential and commercial establishments including Indian Railways, Airport, Port and Harbour and Defence establishments who undertakes construction of or demolition of any civil structure which generate construction and demolition waste.*”

16. **The following notification, guidelines and advisories was not taken into account by the Joint Committee Report: ANNEXURE-14**
Page 120.

i. **National Tiger Conservation Authority NTCA** Gazette Notification No. 15-31/2012-NTCA dated 15.10.2012. The applicable relevant sections are as follows:

- **Section 6. General reasons for tiger decline in areas outside tiger reserves.** The reasons for **tiger decline** in areas outside tiger reserves and protected areas are as below:

Degradation of forest status outside Protected Areas and Tiger Reserves owing to:

- **Human pressure.**
- **ecologically unsustainable land uses.**
- *Fragmentation leading to loss of gene flow from source populations.*
- **Section 7.** Present approach to tiger conservation. “Owing to habitat fragmentation on account of **ecologically unsustainable land uses,** biotic pressure and poaching, the following approach is imperative.”
- **Section 7.3.3.** The **buffer area,** absorbs the "shock" of poaching pressure on populations of tiger and other wild animals. In case of severe **habitat depletion in buffer areas,** the source population would get targeted and eventually decimate.
- **Section 15.3.** The tiger reserves are faced with ecological disturbances and various other problems. Fragmentation of habitats occurs owing to overuse of forest habitats, apart from **conflicting land uses** leading to loss of habitat.....

- **Section 16.5** (para 2) “The ***fringe areas around*** tiger reserve have corridor value, and their ecological sustainability is important to prevent the area from becoming ***ecological sinks*** on account of overuse of resources and “***unwise land use***”. (# NGT efiled-***Fringe area revenue village-Awarghani is listed in “zone of influence” (ZI), being within 1Km from the boundary of PA, TCP Zone of influence, Chapter 5, page 81-83, Table-31, S.No.1)*** **ANNEXURE-26, Page 308.**
- **Section 2.1.1.** State governments “The State-level Tourism and Ecotourism Strategy for Tiger Reserves shall be in tune with these guidelines. **Ecologically sensitive land use policies** related to tourism shall be specified by the State Government for the landscape surrounding tiger reserves. Adequate provisions shall be made to ensure that ecotourism does not get relegated to purely high-end, exclusive tourism, leaving out local communities. **ANNEXURE-14 Part B, Page 160.**
- **Section 2.1.2 (vii) of Part B** “**Development of appropriate *land use* and *water management planning* and regulation for *maintaining the ecological integrity of landscape in and around tiger reserves***”. **ANNEXURE-14, Part B, Page 161.**
- **Section 2.1.8.** A **Local Advisory Committee** (hereinafter referred to as **LAC**) shall be constituted for each tiger reserve by the State Government. The LAC shall have the following functions, namely: - **ANNEXURE-14, Page 162.**

(c) to ensure site specific norms on buildings and infrastructures in areas inside and close to tiger reserves, keeping in view the corridor value and **ecological aesthetics**.

(e) monitor regularly (at least half yearly) all tourist facilities in and around tiger reserves vis-a-vis environmental clearance, area of coverage, ownership, type of construction, number of employees, etc., for suggesting mitigation and retrofitting measures if needed.

- **Section 2.2.4.** The plan shall: *identify (using landscape ecological principles and tools) and monitor the ecologically sensitive areas surrounding tiger reserves, in order to ensure the ecological integrity of corridor and **buffer areas** and prevent corridor encroachment.*
- **Section 2.2.11.** The District Revenue and tiger reserve authorities shall ensure that all tourist facilities **within a zone of influence** (to be identified by the LAC) in the context of core/critical tiger habitats in tiger reserves must adhere to all environmental clearances, noise pollution norms, and are non-polluting, **blending** in with surroundings. Severe penalties must be imposed for non-compliance. (# **village-Awarghani is listed in “zone of influence” (ZI), being within 1Km** from the boundary of PA, TCP Core plan Chapter 5, page-83, Table-31, S.No.1, NGT efiled as TCP Zone of Influence).
ANNEXURE 26, Page 308.

- **Section 2.2.13.** All tourism facilities located within the **zone of influence** (as determined by the LAC) in the context of the tiger reserve shall adhere to **pollution norms** (noise, solid waste, air and water, etc.), under the respective laws or rules for the time being in force. Outdoor high intensity illumination shall not be utilized as it disturbs nocturnal wild animal activities.

ii. **Project Tiger Directorate, MoEF&CC Guidelines November 2004:**
ANNEXURE 24, Page 300.

- Page 3, **The buffer zone/multiple use area is a delineated area around a Core Zone of a Tiger Reserve/National Park/Sanctuary, which facilitates:**
- **Extension Buffering** (Providing Habitat Supplement to the **spill over** population of wild animals from the core).
- The habitat conserved in the **buffer zone** also serves as a corridor for wild animals.
- Page 5, S.No.2. **No intensive form of land use** like mining, quarrying and **the like** should be fostered in the **buffer zone, and due care should be exercised while granting NOC to such activities in private/revenue areas, if any, included in the buffer/multiple use area.** ANNEXURE-24 Page 302.

iii. **Compendium of guidelines, advisories and orders: NTCA.**

ANNEXURE- 22

- Wildlife protection act Section 38O(I)(b), Section 38O(I)(g) and 47th meeting of NBWL dated 25.01.2018. **ANNEXURE 22, Page 293.**
- NTCA circular F. No. 7-9/2010-NTCA (part) dt. 28.11.2018-
ANNEXURE-22, Page 292, Para 1.

Page 2, 1. **“There may be areas within the buffer where legal status of the land can be other than forest. Herein too, section 38 (O) (1) (b) shall be invoked and the Chief Wildlife Warden can refer the matter directly to the NTCA”.....**

Hence, PCCF WL Bhopal could have referred the matter to NTCA accordingly, after receiving my complaints dated 07.04.2022 via email. (ANNEXURE 13, Page 109/ANNEXURE-1, Page 1)

17.Error in the report submitted to the Hon'ble NGT by the Director of SFRI Jabalpur on January 12, 2023.

On page 2, point 5, it is incorrectly stated that the property's boundary is adjacent to the buffer area of the Pench Tiger Reserve Seoni; rather, the entire property is inside the tiger reserve's buffer area (revenue land in buffer area and inside ESZ) that is adjacent to the **core area** of the Pench Tiger Reserve Seoni (roughly 200 meters).

18.Hon'ble Supreme court judgement dated 14.10.2020, (ANNEXURE 21).

CIVIL APPEAL NOS.3438-3439 OF 2020.

(Arising out of S.L.P. (C) Nos.17313-17314 of 2011).

Hospitality Association of Mudumalai.... Appellant(S)

Versus

In defence of environment and Ors.... Respondent(S)

Judgement by: Hon'ble Mr. Justice S. ABDUL NAZEER.

page 38, 40. Furthermore, since the impugned decision of the High Court, the Ministry of Environment, Forest and Climate Change vide its Notification S.O. 4498(E) dated 13.12.2019 has declared the entire area in question and adjoining areas around the Mudumalai Tiger Reserve as an Eco-Sensitive Zone. Under this Notification, the State Government of Tamil Nadu has been expressly directed **to regulate land use generally**, as well commercial establishment of hotels/resorts **specifically, in the Eco-Sensitive Zone so established**. As was held by this Court in ***M.C. Mehta v. Union of India*** and Ors.³ the **“Precautionary Principle”** has been accepted as a part of the law of our land. Articles 21, 47, 48A and 51A(g) of the Constitution of India give a clear mandate to the State to protect and improve the environment and to safeguard the forests and wild life of the country. It is the duty of every citizen of India to protect and improve the natural environment including forests and wild life and to have compassion for living creatures.

Page 34, 36... Overtime, several environmental legislations including the Indian Forest Act, 1927 and the Wildlife Act have been enacted to provide for the protection of forests and wild animals, with a view to ensuring ecological balance and preserving natural habitats including such corridors. **The object of the Wildlife Act was interpreted emphatically** by this Court in *State of Bihar vs. Murad Ali Khan*¹ in the following terms:”

“8. ... The policy and object of the Wild Life laws have a long history and are the result of an increasing awareness of the compelling need to restore the serious ecological-imbances introduced by the depredations inflicted on nature by man. The state to which the ecological imbalances and the consequent environmental damage have reached is so alarming that unless immediate, determined and effective steps were taken, **the damage might become irreversible**. The preservation of the fauna and flora some species of which are getting extinct at an alarming rate, has been a great and urgent necessity for the survival of humanity and these laws reflect a last-ditch battle for the restoration, in part at least, a grave situation emerging from a long history of callous insensitiveness to the enormity of the risks to mankind that go with the deterioration of environment”.

10. ... Environmentalists' conception of the ecological balance in nature is based on the fundamental concept that nature is "a series of complex biotic communities of which a man is an inter-dependant part" and that it should not be given to a part to trespass and diminish the whole. The largest single factor in the depletion of the wealth of animal life in nature has been the "civilized man" operating directly through excessive commercial hunting or, more disastrously, indirectly through invading or **destroying natural habitats.**”

19.Hon’ble Supreme court judgement dated 03rd June, 2022-ANNEXURE 28

Civil original jurisdiction

I.A. No.1000 of 2003 (Recommendation of CEC dated 20.11.2003)

Case No. W.P.(C) No.-000202-000202 / 1995

In the Matter of: WRIT PETITION (CIVIL) NO. 202 of 1995

In Re: T.N. Godavarman Thirumulpad Petitioner(s)

Versus

Union of India and Ors.Respondent(s)

Judgment By: HON'BLE MR. JUSTICE ANIRUDDHA BOSE

Page 36, 28 This Court has highlighted the Public Trust Doctrine in the case of **M.C. Mehta v. Kamal Nath and Others** [(1997) 1 SCC 388] and opined that the Public Trust Doctrine **is part of the law of land**. In Paragraph 25 of the said judgment, as reported, this doctrine has been explained with reference to writings of Joseph L. Sax, Professor of Law, University of Michigan, the proponent of Modern Public Trust Doctrine:

“25. The Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, **waters** and the forests have such a great importance to the people as a whole that it would be **wholly unjustified to make them a subject of private ownership**. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for **private ownership** or commercial purposes”

Page 43, 35. The approach of the Court in dealing with complaints of environmental degradation has been laid down by this very Bench in this Writ Petition itself in an order passed on 9th May 2022 in connection with another set of applications. In this Order, it has been observed and held: -

“15. While economic development should not be allowed to take place **at the cost of ecology** or by causing widespread environment destruction and violation; at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and **ensuring** the protection of environment

Page 44, 16. In **Vellore Citizens' Welfare Forum v. Union of India**, this Court held that the **'Precautionary Principle'** is an essential feature of the principle of 'Sustainable Development'. It went on to explain the precautionary principle in the following terms:

(i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and **irreversible damage**, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The “onus of proof” is on the actor or the developer/industrialist to show that his action is environmentally benign.

17. The principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. It is based on scientific uncertainty. Environmental protection should not only aim at protecting health, property and economic interest **but also protect the environment for its own sake.** Precautionary duties must not only be triggered by the suspicion of concrete danger but also by justified concern or risk potential.

18. A situation may arise where there may be irreparable damage to the environment after an activity is allowed to go ahead and if it is stopped, there may be irreparable damage to economic interest. This Court held that in case of a doubt, protection of environment would have precedence over the economic interest. It was further held that precautionary principle requires anticipatory action to be taken to prevent harm and that harm can be prevented even on a reasonable suspicion. Further, this Court emphasises in the said judgment that it is **not always necessary** that there should be direct evidence of harm to the environment.”

Page 54, (c) The Principal Chief Conservator of Forests for each State and Union Territory shall also arrange to make a **list of subsisting structures and other relevant details** within the respective ESZs forthwith and a report shall be furnished before this Court by the Principal Chief Conservator of Forests of each State and Union Territory within a period of three months. For this purpose, such authority shall be entitled to take assistance of any governmental agency **for satellite imaging or photography using drones. (#The PCCF Bhopal M.P can be directed to obtain satellite images and photography using drones for case records).**

There are 108 villages within the ESZ, as per Annexure III page 38 of the Gazette Notification dated 06.11.2019 of Eco sensitive Zone (ESZ), PENCH

*Tiger Reserve Seoni. If the aforementioned activities are not halted, the landowners of numerous ponds on revenue land within the Eco-Sensitive Zone (ESZ) might follow the same pattern of dumping of excavated mud, pond pitching, digging trench and high fencing; **habitat fragmentation and obstruction to tiger dispersal will occur gradually in ESZ. The decision to allow such activities will be disastrous to the long-term survival of tiger species and the ecosystem.***

*The Pench Tiger Reserve Seoni has its importance in the natural history of central India, the area of Pench Tiger Reserve Seoni is also popularly known as **Mowgli land**. This area famous as it has been mentioned as Mowgli land in Rudyard Kipling's "**The Jungle Book**". It is necessary to conserve and protect the area around the protected area of Pench Tiger Reserve (Indira Priyadarsini Pench National Park and Mowgli Pench Sanctuary) as eco-sensitive zone from ecological and environmental point of view.*

*Tigers are a **keystone species**, crucial for the integrity of the ecosystems in which they live. As top predators, they keep populations of prey species in check, which in turn maintains the balance between herbivores and the vegetation upon which they feed. In short, when tigers thrive, the whole ecosystem thrives. After a territorial fight or the dispersing transient tigers may establish territory in **buffer and fringe areas** near a water source. The buffer zone takes care of the spill over population of tiger and other species by providing area for dispersal and suitable habitat to Tiger and other species from adjoining core area of Pench Tiger Reserve.*

The area is very important for gene flow of various species; especially Tiger. The buffer zone is very important for genetic diversity and gene

*flow in the landscape. This is vital for keeping tiger population sustainable in the landscape. The buffer zone takes care of the spill over population of tiger and other species by providing area for dispersal and suitable habitat to Tiger and other species from adjoining core area of Pench Tiger Reserve. The buffer zone comes in the Pench- Kanha corridor. (TCP Buffer page 9, para 3, Chapter 01, NGT efiled). **ANNEXURE 27, Page 310, Para 3.***

It seems unlikely that such a large-scale costly mega project would be used solely for fish farming, cow shelter and agriculture. There are concerns that current developments around 1.5-hectare (3.7-acre) ponds will eventually result in commercial activity, which is prohibited within 1 km of the core area boundary inside the ESZ.

The high mud slope barriers, high fencing, pond pitching, trench and room constructions within the “no construction zone” (norms of LAC committee) be removed, until the damage might become irreversible. All precaution shall be taken to ensure that the adjacent water stream flows unhindered and process of natural nala meandering doesn’t get affected due to any site activity.

*That “Seventh Generation” sustainability principle, or the “Great Law of the Iroquois” which requires all decisions making to withstand for the **benefits of seven generations down the line.***

PRAYER

In light of above facts and circumstances, it is most respectfully prayed that by appropriate orders or directions, this Hon’ble Tribunal may be pleased to:

- (i) Direct the Respondents to undertake restoration measures of the pond by removing stone pitching and remove all high mud mounds around it;
- (ii) Direct to remove all fencing above 4 feet around the pond and on the entire properties in the ESZ of the PENCH Tiger Reserve Seoni for ease of passage of wild animals to drink water and for the unhindered tiger dispersal.
- (iii) Direct to remove the present rooms and demolish the soak pits/septic tank within 100 meters of the pond.
- (iv) Direct to fill the entire trench (garland drain) along the jungle side.
- (v) Direct to obtain one season Rapid EIA report from SFRI Jabalpur (as per the SFRI Jabalpur Director's letter 12.01.2023)
- (vi) Direct National Tiger Conservation Authority NTCA, N. Delhi to submit the report as the matter pertains to a Tiger reserve.

Legal intervention has been necessitated hence, pass any other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.

For kind consideration by this Hon'ble Tribunal.

18.01.2023

Capt. Brajesh Bharadwaj

Chhindwara M.P

Note: - The mentioned Annexures/Index were previously E-filed with NGT and sent via email after the submission of "FACTS" of the Original application.